

REMARKS/ARGUMENTS

Claims 1-24 remain in the application. Claims 1, 5, 8-10, 13, 16, 19, 20 and 22-24 are currently amended.

Information Disclosure Statement

The Examiner is thanked for acknowledging and reviewing the Information Disclosure Statement previously filed.

Claim Objections

Claim 19 was objected to as failing to recite a portion of the preamble. Claim 19 is herein currently amended to correct this informality.

Claim Rejections Under 35 USC § 112

Claims 8, 9-19 and 22 were objected to under 35 USC § 112, second paragraph.

Claims 8, 19 and 22 were objected to as having improper Markush format. Claims 8, 19 and 22 are herein amended to read in proper Markush format.

Claims 13 and 16 were objected to for use of a colon (:) after the phrase “consisting of.” Claims 13 and 16 are herein amended to comply with the Examiner’s punctuation requirements.

Claims 9 and 20 were objected to for limiting the “support member” by reciting a book. The Examiner’s attention is directed to the Specification as published at paragraphs [0030] through [0032]:

[0030] The present invention is an apparatus and method for holding open the pages of a book and further for marking a place in a book. Accordingly, the book page holder of the invention is embodied in an elongated resilient elastic retainer having first and second anchors at opposite first and second ends thereof, and a substantially rigid support bar formed in the general shape of an elongated rectangle having substantially planar first and second surfaces spaced apart by the thickness of a substrate of which the support bar is

formed and having first and second end portions at opposite ends of the elongated rectangle shape and spaced far enough apart to admit an open book there between of a standard sized hard cover or paperback book size.

[0031] According to one or more embodiments of the invention, each of the first and second end portions is formed with a slot through the substrate thickness and extending a relatively short distance along the longitudinal axis of the rectangular shape with the slots being sized to accept the elastic retainer thereinto and to reject the first and second anchors from entering thereinto and being spaced apart farther than a distance between the first and second anchors when the elastic retainer is configured in a relaxed state. According to one embodiment of the invention, interior ends of the slots are spaced sufficiently far apart to admit there between a standard sized hard cover or paperback book in an open state.

[0032] FIG. 1 illustrates the present invention embodied as a book page holder 10 having an elongated resiliently stretchable elastic retainer 12 formed, for example, of an elastic material having a "slippery" contact surface that permits the elastic retainer 12 to slip across pages of the book without sticking, the slippery contact surface is formed with a low coefficient of friction as compared with, for example, a natural or synthetic rubber band. In one example, the low friction slippery contact surface is provided by the resiliently stretchable elastic retainer 12 being formed with a material surface finish having a coefficient of friction that is low as compared with, for example, the surface finish of a common natural or synthetic rubber band. Alternatively, the low friction slippery contact surface is provided by a covering of cloth or other natural or synthetic fabric having such a relatively low coefficient of friction. The elastic retainer 12 is structured with first and second anchors 14, 16 adjacent opposite ends thereof. The anchors 14, 16 are integral enlarged portions of the elastic retainer 12 formed, for example, by sewing, gluing, by knots tied therein (shown), or by other conventional manufacturing process. The anchors 14, 16 are optionally formed by external members fitted to the elastic retainer 12, as described in subsequent

figures. The anchors 14, 16 are spaced along the elongated elastic retainer 12 a distance determined to stretch under light hand pressure to a length sized to fit across the open pages of a book. Optionally, the elastic retainer 12 and the distance between the anchors 14, 16 are sized to fit across the open pages of either a standard sized hard cover or paperback book and include the thickness of the pages between the opening and the books covers, as illustrated in subsequent figures. Tails 18, 20 are provided at first and second ends of the elastic retainer 12 distal of the anchors 14, 16. The tails 18, 20 are sized sufficiently long to be grasped by the user's finger and thumb to manipulate the elastic retainer 12 relative to a support bar 22 for holding open the pages of a book and further for marking a place in a book, as described herein.

As shown by at least the underlined portions of the Specification at paragraphs [0030] through [0032], the "support member" is clearly defined as being sized to accept either a "standard" sized hard cover or paperback book that is in an open state, as recited in claims 9 and 20. Therefore, the Applicant believes that reciting the "standard" sized hard cover or paperback book as a limitation on the "support member" sufficiently particularly points out and distinctly claims the subject matter which the Applicant regards as his invention.

However, claims 9 and 20 are amended herein for other reasons, and are also amended to overcome the Examiner's objection.

Claim Rejections Under 35 USC § 102

Claims 1, 2, 4- 9 and 13-18 were rejected under 35 USC § 102(b) over US Patent 4,555,128 to White, et al.

The invention as recited in amended claim 1 is patentable over White which teaches a foldable support stand 10 having a lower base section 12, an upper support panel 14, and a hinge 16 which interconnects lower base 12 with upper support panel 14, so that support panel 14 and lip 18 are mutually pivotable relative to each other about hinge 16. Column 2, lines 40-46.

As shown in FIGS. 2, 3 and 4, support panel 14 is pivoted upwardly from base 12 and held at an angled position by a brace 34 in a "reading stand position." Column 3, lines 1-4.

In the reading stand position, a lip 18 is rotated out from support panel 14 for being supporting a book on the reading stand. In order to hold the book open, an elastic page holder 51 is provided in the form of an elastic band 52 which extends for the length of support panel 14. The ends of elastic band 52 extend around opposite ends of support panel 14. As shown in FIGS. 3 and 5, the peripheral edge of support panel 14 has a ridge 54 to add additional strength. A recess 56 is formed in the ridge 54 and elastic band 52 is passed through ridge [54]. A second ridge 57 is also formed around the periphery of support panel 14 at a position spaced inwardly from ridge 54. Ridge 57 has holes 58 formed therein in alignment with recesses 56. A clip 61 is crimped onto each end of elastic band 52 and is passed through an opening 58, turned sideways and held against the inside of ridge 57 by band 52. Column 3, lines 26-47.

Holes 59 are formed in the top of support panel 14. The only purpose for holes 59 is to permit the mold to extend into ridge 57 to form holes 58. Column 3, lines 52-55.

The invention of amended claim 1 is a book page holder device having a substantially thin and rigid support member having substantially flat spaced apart upper and lower surfaces between first and second spaced apart edges; and an elastic retaining means having means for anchoring first and second opposite ends thereof to the support member surfaces adjacent to the respective first and second spaced apart edges.

The invention of amended claim 1 is patentable over White. As amended, claim 1 includes the limitation that the anchoring means anchors the ends of the elastic retaining means to the actual support member surfaces. In contrast, White teaches the support panel 14 having the ends of elastic band 52 passing through recesses 56 in a peripheral ridge 54 and anchored through holes 58 formed in a second ridge 57 that is also formed around the periphery of support panel 14 at a position spaced inwardly from ridge 54. Thus, as taught by White, the elastic band 52 is anchored to the ridge 57 that is formed around the periphery of support panel 14, rather than having means for anchoring first and second opposite ends thereof to the support member surfaces, as recited in amended claim 1.

The Examiner may argue that the ridges 54 and 57 are part of the support panel 14 so that, by anchoring the elastic band 52 to the inner ridge 57, the elastic band 52 is anchored to the surfaces of the support panel 14. The Applicant disagrees with this characterization. White specifically indicates that the ridges 54 and 57 are formed on the periphery of the support panel

14. As such, the ridges 54 and 57 cannot be “surfaces” of the support panel 14 within the clear meaning of the “flat spaced apart upper and lower surfaces” of claim 1.

Furthermore, the support panel 14 of White is not a “substantially thin and rigid support member having substantially flat spaced apart upper and lower surfaces,” as recited in amended claim 1. The support panel 14 of White is not “rigid” because it does not include the peripheral ridges 54, 57 which are necessary “to add additional strength.” Column 3, lines 37-39.

In the alternative, the support panel 14 is “rigid” but does not have “substantially flat spaced apart upper and lower surfaces” extending between the edges, because to be “rigid” the support panel 14 must include at least one of the peripheral ridges 54, 57. The peripheral ridges 54, 57 cause the support panel 14 to NOT have “flat” surfaces. Column 3, lines 37-39; and Figures 3 and 5.

For at least the above reasons claim 1 is now believed to be allowable. Claims 2-8 are allowable as depending from allowable claim 1.

Dependent claim 2 is further allowable as reciting anchoring means further comprises one or more “hook-shaped” mechanical edge gripper secured to the elastic retaining means. White merely provides a “clip” 61 on the ends of the elastic band 52 that must be passed through a opening 58, turned sideways and held against the inside of ridge 57 to anchor. In contrast, the “hook-shaped” mechanical edge gripper of claim 2 which provides a “curved jaw 94” that is “structured to fit around the body of the support bar 22 while fitting within the notch 92. The curved jaw 94 is, by example and without limitation, turned almost completely back on itself in a tight curve similar to a safety pin, whereby the jaw 94 resists dislodging strains on the anchor 14 applied in almost any direction.” See, Figure 18 and published Specification at paragraph [0058].

Alternatively, the “hook-shaped” mechanical edge gripper of claim 2 provides a “curved jaw 98” that is “led back on itself and having a lip on its open mouth structured with one or more gripping members or ‘teeth’ 100. The curved jaw 98 is structured to fit around the body of the support bar 22 at one end 24 (or 26) while the teeth 100 are structured to grip the underside of the bar 22 opposite from the elastic retainer 12.” See, Figure 20 and published Specification at paragraph [0061].

Clearly, the “clip” 61 taught by White that must be passed through the opening 58 and turned sideways and held against the inside of ridge 57 to anchor cannot anticipate the “hook-shaped” mechanical edge gripper of claim 2.

For at least the above reasons claim 2 is believed to be allowable independently of base claim 1.

Dependent claim 4 is further allowable as reciting the support member further comprising a “substantially rigid material.” The Examiner suggested that White teaches the support panel 14 being made of a “substantially rigid material.” To support this argument, the Examiner cited White at column 3, lines 48-50, which state, “Preferably, the support panel 14 and the base 12 are injection molded from a durable synthetic resin such as polypropylene.”

The Examiner is mistaken in believing that White thus teaches the support panel 14 being made of a “substantially rigid material,” as recited in claim 4. Rather, in contrast to being a “substantially rigid material,” polypropylene is commonly known to be a highly flexible material. Furthermore, White does not suggest that polypropylene is a “substantially rigid material.” Rather, White states only that polypropylene is a “durable synthetic resin” suitable for injection molding. See, White at column 3, lines 48-50.

The present invention is made rigid by being made of a “stiff” material such as “plastic or Plexiglas, acrylic, wood, metal, or another suitably stiff material.” See, published Specification at paragraph [0034]. Polypropylene is commonly known not to be such a material.

For at least the above reasons claim 4 is believed to be allowable independently of base claim 1.

Dependent claim 5 is further allowable as reciting the support member further comprising first and second passages through the upper and lower support member surfaces adjacent the first and second spaced apart edges with the passages being sized to accept the elastic retaining means there through and to reject the anchoring means from entering thereinto. In contrast, White teaches holes 58 for clip 61, the holes 58 being formed in the ridge 57 that extends from a bottom surface of the support panel 14. Column 3, lines 26-47.

Thus, the anchor support holes 58 taught by White are not through the “upper and lower support member surfaces,” as recited in amended claim 5.

For at least the above reasons claim 5 is believed to be allowable independently of base claim 1.

Dependent claim 6 is allowable at least as depending from allowable claim 5.

Dependent claim 6 is further allowable as reciting one or more of the first and second passages being a "slot communicating with an edge of the support member." The Examiner appears to argue that recess 56 formed in the ridge 54 constitutes the "slot" of claim 6 that communicates with an edge of the support member.

Such characterization of the recess 56 is in error. The "slot" of claim 6 is "one or more of the first and second passages" recited in claim 5 as being "formed through the upper and lower support member surfaces." As discussed above, the ridge 54 as taught by White is formed on the bottom side of the support panel 14. See, Figures 3 and 5; and column 3, lines 37-44.

Because recess 56 is not "formed through the upper and lower support member surfaces," recess 56 cannot anticipate the "slot" being "formed through the upper and lower support member surfaces," as recited in claim 6.

For at least the above reasons claim 6 is believed to be allowable independently of base claim 1 and intervening claim 5.

Dependent claim 7 is further allowable as reciting one or more of the first and second passages being "an aperture adjacent to an edge of the support member and communicating between opposite surfaces thereof." The Examiner appears to argue that hole 58 formed in the ridge 57 constitutes the "aperture adjacent to an edge of the support member and communicating between opposite surfaces thereof," as recited in claim 7.

The "aperture" of claim 7 is "one or more of the first and second passages" recited in claim 5 as being "formed through the upper and lower support member surfaces." As discussed above, the ridge 54 as taught by White is formed on the bottom side of the support panel 14. See, Figures 3 and 5; and column 3, lines 37-44.

Because hole 58 is not "formed through the upper and lower support member surfaces," hole 58 cannot anticipate the "aperture" of claim 7 being "formed through the upper and lower support member surfaces."

For at least the above reasons claim 7 is believed to be allowable independently of base claim 1 and intervening claim 5.

Amended claim 9 differs in scope from allowable claim 1. However, the above arguments directed to claim 1 are sufficiently applicable to claim 9 as to make repetition unnecessary. Thus, for each of the reasons above, claim 9 is believed to be allowable over the cited art.

Claim 9 is further allowable as reciting the rigid support member being of "substantially constant cross-section" between substantially flat spaced-apart upper and lower surfaces. The "substantially constant cross-section" limitation on the support member clearly cannot be anticipated by the support panel 14 having ridges 54 and 57 formed on the bottom surface.

Claims 13-18 are allowable at least as depending from allowable claim 9.

Claim 13 is further allowable as reciting the support member being formed of a material selected from the group of materials consisting of "acrylic, wood, and metal." In contrast, the only material White teaches is polypropylene which is a synthetic resin having general properties described by Boedeker Plastics, Inc. as follows:

GENERAL DESCRIPTION

Polypropylene is an economical material that offers a combination of outstanding physical, chemical, mechanical, thermal and electrical properties not found in any other thermoplastic. Compared to low or high density polyethylene, it has a lower impact strength, but superior working temperature and tensile strength.

GENERAL PROPERTIES

Polypropylene provides excellent resistance to organic solvents, degreasing agents and electrolytic attack. It has a lower impact strength, but its working temperatures and tensile strength are superior to low or high density polyethylene. It is light in weight, resistant to staining, and has a low moisture absorption rate. This is a tough, heat-resistant, semi-rigid material, ideal for the transfer of hot liquids or gases. It is recommended for vacuum systems and where higher heats and pressures are encountered. It has excellent resistance to acids and alkalines, but poor resistance to aromatic, aliphatic and chlorinated solvents.

See, Boedeker Plastics, Inc., 904 West 6th Street, Shiner, Texas 77984 USA at
http://www.boedeker.com/polyp_p.htm.

In contrast, Boedeker Plastics, Inc. provides the following description of acrylics, including Plexiglas:

GENERAL DESCRIPTION

Acrylics (Polymethyl-Methacrylate or PMMA) is an amorphous thermoplastic which is optically transparent, unaffected by moisture, and offers a high strength-to-weight ratio. Common trade names of acrylic include Plexiglas®, Lucite®, and Acrylite®.

GENERAL PROPERTIES

Acrylics offer high light transmittance with a Refractive Index of 1.49 and can be easily heat-formed without loss of optical clarity. Prolonged exposure to moisture, or even total immersion in water, does not significantly effect the mechanical or optical properties of acrylic. Most commercial acrylics have been UV stabilized for good weatherability and resistance prolonged sunlight exposure.

Acrylics are unaffected by aqueous solutions of most laboratory chemicals, by detergents, cleaners, dilute inorganic acids, alkalies, and aliphatic hydrocarbons -- however, acrylics are NOT recommended for use with chlorinated or aromatic hydrocarbons, esters, or ketones.

Acrylics are easily sawed, drilled, milled, engraved, and finished with sharp carbide-tipped tools. Cut surfaces may be readily sanded and polished. They are also readily bend or thermoformed at low temperature and solvent bonding of properly fitting parts produces a strong, invisible joint. Acrylics are available in colorless clear as well as a wide variety of colors and tints. They are available in extruded and/or cast material in sheet, rod and tube forms as well as custom profiles.

TYPICAL APPLICATIONS

Acrylic is an economical, general purpose material used in a wide variety of applications, including store fixtures and displays, lenses and lighting fixtures, light pipes, windows and skylights, sight gauges, furniture, outdoor signs, sculpture.

See, Boedeker Plastics, Inc. at http://www.boedeker.com/acryl_p.htm.

White thus fails to teach the support member being formed of a material selected from the group of materials consisting of "acrylic, wood, and metal," as recited in amended claim 13.

Accordingly, for at least the above reasons claim 13 is believed to be allowable independently of base claim 9.

Claim 15 is further allowable as reciting the elastic retainer as being an elastic material having a "slippery contact surface." In contrast, White fails to teach the elastic band 52 as having a "slippery contact surface." Rather, White merely states that "an elastic page holder 51 is provided. Page holder 51 is in the form of an elastic band 52 which extends for the length of support panel 14." See, column 3, lines 32-35.

Accordingly, for at least the above reasons claim 15 is believed to be allowable independently of base claim 9.

Claim 18 is further allowable as reciting the support member having means for "compacting the support member." In contrast, White teaches the support panel 14 being a single integral sheet of polypropylene material without any means for "compacting" it. See, e.g., Figure 2. Rather, White teaches only that the support panel 14 is pivotable relative to a base 12. Such pivoting of the support panel 14 relative to the base 12 only provides for the "support stand," which is the subject of the White reference, to be compacted. The support panel 14 which is relevant to the "support member" of the present invention, is clearly not "compactable."

Accordingly, for at least the above reasons claim 18 is believed to be allowable independently of base claim 9.

Claims 9-10, 12, and 20-23 were rejected under 35 USC § 102(b) over US Patent 2,808,908 to "Lykes." US Patent 2,808,908 to "Lyon" teaches a wheel structure with brake drum cooling means. The Applicant believes that the 2,808,908 reference is an error, and is unable

to determine the correct reference from the information given in the Office Action, the Notice of References Cited and paper copies of references included therewith. Therefore, the Applicant is not able to respond to the Examiner's rejection as to claims 9-10, 12, and 20-23.

The Applicant respectfully requests that the Examiner reconsider the rejection as to this unidentified reference in light of the current amendments made herein, and if appropriate withdraw the rejection, else provide identification information for the intended reference.

Claim Rejections Under 35 USC § 103

Claims 11 and 24 were rejected under 35 USC § 103(a) over the US Patent 2,808,908 to "Lykes" which, as discussed immediately above, is not identifiable by the Applicant.

However, as to base claims 9 and 20, the Applicant believes that White fails to disclose or suggest the "rigid" support member having flat spaced-apart upper and lower surfaces, as recited in claim 9, or planar first and second operating surfaces, as recited in claim 20. As discussed above in regard to the rejection of claim 1 under 35 USC § 102(b) over White, support panel 14 is made of a flexible material, namely polypropylene, such that the support panel 14 requires the ridge 54 along its peripheral edge "to add additional strength." See, column 3, lines 37-39. Therefore, support panel 14 fails to disclose or suggest being a "rigid" support member, as recited in base claims 9 and 20.

Furthermore, if the ridges 54 and 57 on the bottom side of support panel 14 are considered, the Applicant believes in error, to be part of the support panel 14, then White fails to disclose or suggest the rigid support member being "of substantially constant cross-section," as recited in amended claim 9, and also fails to disclose or suggest the rigid support member having "substantially flat spaced-apart upper and lower surfaces," as recited in amended claim 9.

Also, if the ridges 54 and 57 on the bottom side of support panel 14 are considered, the Applicant believes in error, to be part of the support panel 14, then White fails to disclose or suggest the anchors of the elastic retainer being "structured to secure the first and second opposite ends of the elastic retainer to the substantially flat support member surfaces adjacent to the respective spaced-apart edges thereof," as recited in amended claim 9. Rather, White would teach the clips 61 securing the elastic band 52 to the ridge 57 on the back side of the support panel 14. See, column 3, lines 44-46.

Therefore, the present invention actually accomplishes the function of the securing the ends of the elastic retainer, but eliminates the ridges 57 by anchoring the elastic retainer directly to the support member surfaces. Accomplishing the same function with less parts is known to be a "clear indicia" of nonobviousness.

Furthermore, if as the Applicant believes, the ridges 54 are not part of the support panel 14 taught by White, but are rather in addition to the back surface, then causing the support member to be "rigid" without resorting to the addition of such ridges of White "to add additional strength," accomplishes the same function of making the support member "rigid" while eliminating the extra ridges. Thus accomplishing the same function with less parts is another "clear indicia" of nonobviousness.

Therefore, the Applicant respectfully requests that the Examiner reconsider the rejection as to this unidentified reference in light of the current amendments made herein, and if appropriate withdraw the rejection, else provide identification information for the intended reference.

Claim 3 was rejected under 35 USC § 103(a) over the White reference in view of US Patent 6,453,589 to Schwartz. Claim 3 depends from base claim 1.

As discussed above in regard to claims 9 and 20, the invention as presently recited in claim 1 includes at least two "clear indicia" of nonobviousness. Firstly, claim 1 recites the support member being "rigid." In contrast, White teaches the support panel 14 being made of a flexible material, namely polypropylene, which requires addition of a peripheral ridge 54 "to add additional strength." Column 3, lines 37-39. Therefore, support panel 14 fails to disclose or suggest being a "rigid" support member, as recited in base claim 1. Eliminating the ridge 54 while retaining the function of making the support member "rigid" is a "clear indicia" of nonobviousness.

Secondly, White requires the ridges 57 to provide the holes 58 for anchoring the ends of the elastic band 52. In contrast, the present invention as recited in amended claim 1, eliminates the extra ridge 57 on the backside of the support panel 14, and instead anchors the elastic retaining means directly to the support member surfaces. Eliminating the ridge 57 while retaining the function of anchoring the elastic retaining means is another "clear indicia" of nonobviousness.

Furthermore, if the ridges 54 and 57 are part of the support panel 14, the Applicant does not agree, then White fails to disclose or suggest the support member having "substantially flat spaced apart upper and lower surfaces," as recited in claim 1.

Schwartz fails to provide the deficiencies of White. Schwartz teaches an essentially open file folder having a locking feature. See, e.g., Abstract. The Examiner cites Schwartz only as supplying the fabric-covered elastic material of the elastic retaining means, as recited in claim 3. The Examiner does not contend that Schwartz supplies any of the essential elements of the invention as recited in base claim 1. The Applicant believes that the Examiner admits, and the Applicant agrees, that Schwartz fails to provide the deficiencies of base claim 1.

For at least the above reasons base claim 1 is believed to be allowable. Claim 3 is allowable at least as depending from allowable claim 1.

Allowable Subject Matter

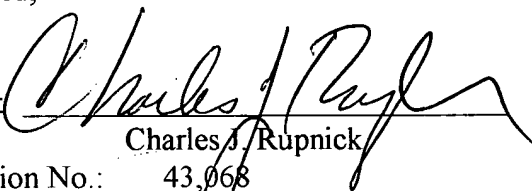
Claim 19 was found to contain allowable subject matter and the Examiner is thanked for indicating that claim 19 would be allowable if rewritten in independent form. Claim 19 is so rewritten herein. Claim 19 is now believed to be allowable.

The claims now being in form for allowance, reconsideration and allowance is respectfully requested.

If the Examiner has questions or wishes to discuss any aspect of the case, the Examiner is encouraged to contact the undersigned at the telephone number given below.

Respectfully submitted,

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